

S.218

Introduced by Senator White

Referred to Committee on Government Operations

Date: January 7, 2014

Subject: Executive; classification of State personnel; temporary employees

Statement of purpose of bill as introduced: This bill proposes to decrease the number of temporary employees in the workforce by making permanent any State employee who works more than 1,040 hours in a 365-day period.

An act relating to temporary employees

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 3 V.S.A. § 331 is amended to read:~~

~~§ 331. TEMPORARY EMPLOYEES~~

~~(a) The ~~state~~ State shall not employ any person in a temporary capacity except in accordance with the provisions of this section.~~

~~(b)(1) On request of the appointing authority, the ~~commissioner of human resources~~ Commissioner of Human Resources may approve, in writing, the creation of a temporary position and the hiring of a person to fill such temporary position only if the position and person are needed.~~

~~(A) ~~to~~ To meet a seasonal employment need of ~~state~~ State government;~~

1 ~~(B) to To respond to a bona fide emergency;~~

2 (C) ~~to~~ To fill in for the temporary absence of an existing employee,
3 or a vacancy in an existing position; ~~or~~.

4 (D) ~~to~~ To perform a governmental function that requires only
5 intermittent, sporadic, or ongoing employment that averages less than 20 hours
6 per week during any ~~one calendar year~~ 365-day period, provided that such
7 employment does not exceed ~~4,520~~ 1,040 hours in any ~~one calendar year~~
8 365-day period. An employee who works more than 1,040 hours in any
9 365-day period shall become a permanent classified employee.

10 (2)(A) Except as provided in subdivision (1) of this subsection, the
11 ~~commissioner~~ Commissioner shall not approve the creation of a temporary
12 position or the hiring of a person to fill such temporary position if the
13 governmental function is ongoing and continuing.

14 (B) The ~~commissioner~~ Commissioner shall not approve the creation
15 of a temporary position or the hiring of a person to fill such temporary position
16 if approval is intended to circumvent, or has the effect of circumventing, the
17 policies and purposes of the classified service under this chapter.

18 (c) The ~~commissioner~~ Commissioner may authorize the continued
19 employment of a person in a temporary capacity for more than ~~4,520~~ 1,040
20 hours in any ~~one calendar year~~ 365-day period if the ~~commissioner~~
21 Commissioner determines, in writing, that a bona fide emergency exists for the

1 ~~appointing authority that requires such continued employment, but in no event~~
2 shall that employment continue beyond 1,520 hours in a 365-day period
3 without the prior approval of the General Assembly or the Joint
4 Fiscal Committee.

5 (d) The ~~commissioner~~ Commissioner may transfer and convert existing,
6 vacant positions in the ~~executive branch of state~~ Executive Branch of State
7 government to replace the temporary positions of long-term temporary
8 employees who are performing ongoing and continuing functions of ~~state~~ State
9 government for more than an average of 20 hours per week during any ~~one~~
10 ~~calendar year~~ 365-day period or for more than ~~1,520~~ 1,040 hours in any ~~one~~
11 ~~calendar year~~ 365-day period.

12 (e) Any party aggrieved by a decision of the ~~commissioner~~ Commissioner
13 under this section may request that the ~~commissioner~~ Commissioner reconsider
14 his or her decision. Such party may appeal the ~~commissioner's~~
15 Commissioner's reconsideration to the Vermont ~~labor relations board~~ Labor
16 Relations Board pursuant to the rules of the ~~board~~ Board. Within 90 days of
17 the filing of an appeal, the ~~board~~ Board shall determine if the ~~commissioner of~~
18 ~~human resources~~ Commissioner of Human Resources abused his or her
19 discretion under this section. If the ~~board~~ Board determines that there has been
20 an abuse of discretion, the ~~board~~ Board shall remand the decision back to the
21 ~~commissioner~~ Commissioner and order that corrective action be taken within

1 ~~90 days of the board's Board's order. The commissioner Commissioner, in his~~
2 or her sole discretion, may replace the temporary employee with a permanent
3 position, or eliminate the temporary position and grant reemployment rights if
4 those rights would have been provided to a classified employee under the
5 relevant collective bargaining agreement.

6 (f) All temporary employees shall have access to the State employees'
7 health care plan and shall be provided with six paid sick days.

8 Sec. 2. EFFECTIVE DATE

9 ~~This act shall take effect on July 1, 2014.~~

Sec. 1. 3 V.S.A. § 331 is amended to read:

§ 331. TEMPORARY EMPLOYEES

(a) The ~~state~~ State shall not employ any person in a temporary capacity except in accordance with the provisions of this section.

(b)(1) On request of the appointing authority, the ~~commissioner of human resources~~ Commissioner of Human Resources may approve, in writing, the creation of a temporary position and the hiring of a person to fill such temporary position only if the position and person are needed:

(A) ~~to~~ To meet a seasonal employment need of ~~state~~ State government;

(B) ~~to~~ To respond to a bona fide emergency;

(C) ~~to~~ To fill in for the temporary absence of an existing employee, or a vacancy in an existing position;

(D) ~~to~~ To perform a governmental function that requires only intermittent, sporadic, or ongoing employment that averages less than 20 hours per week during any one calendar year, provided that such employment does not exceed ~~1,520~~ 1,280 hours in any one calendar year.

(2)(A) Except as provided in subdivision (1) of this subsection, the ~~commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position if the governmental function is ongoing and continuing.

(B) ~~The commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position if approval is intended to circumvent, or has the effect of circumventing, the policies and purposes of the classified service under this chapter.

(c)(1) ~~The commissioner~~ Commissioner may authorize the continued employment of a person in a temporary capacity for more than ~~1,520~~ 1,280 hours in any one calendar year if the ~~commissioner~~ Commissioner determines, in writing, that a bona fide emergency exists for the appointing authority that requires such continued employment. Annually, on January 15, the Commissioner shall submit a report to the General Assembly:

(A) identifying the total number of temporary employees who have worked:

(i) 1,280 hours in the prior calendar year; or

(ii) in excess of 1,280 hours in the prior calendar year;

(B) identifying the agency or department that is assigned the temporary position;

(C) identifying the total number of hours worked by each temporary employee; and

(D) including a statement:

(i) recommending the conversion of the position to a permanent classified position; or

(ii) stating the reasons why the temporary position should be continued.

(2) It shall be the responsibility of the head of each department to provide to the Department of Human Resources a detailed justification for each waiver to exceed the 1,280-hour limit within his or her department and such other information as may be required in order to enable that Department to carry out its responsibility under this section.

(d) ~~The commissioner~~ Commissioner may transfer and convert existing, vacant positions in the ~~executive branch~~ Executive Branch of ~~state~~ State government to replace the temporary positions of long-term temporary employees who are performing ongoing and continuing functions of ~~state~~ State government for more than an average of 20 hours per week during any one calendar year or for more than ~~1,520~~ 1,280 hours in any one calendar year.

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*Sec. 1a. COMMISSIONER OF HUMAN RESOURCES; REPORT;
TEMPORARY STATE EMPLOYEES; SICK LEAVE BENEFITS*

(a) On or before January 15, 2015, the Commissioner of Human Resources shall report to the House and Senate Committees on Government Operations regarding his or her analysis of whether temporary State employees should be able to earn sick leave benefits.

(b) In conducting his or her analysis, the Commissioner shall consider and include in the report:

(1) how many temporary employees are employed by the State;

(2) the departments in which those temporary employees are employed;

(3) how long those temporary employees have been employed in that capacity;

(4) how much it would cost the State to offer the temporary employees sick leave benefits; and

(5) whether there should be a pathway to permanent employment for temporary employees, and if so, what the standards for permanent employment should be.

~~*Sec. 2. DEPARTMENT OF CORRECTIONS PROVISIONS RELATING TO
CONTRABAND*~~

~~The Commissioner of Corrections:~~

~~(1) shall have the sole discretion to conduct searches of personal belongings of all persons when entering the secure portion of a State correctional facility;~~

~~(2) may conduct preemployment drug screening of all permanent and temporary Department of Corrections employees hired after July 1, 2014;~~

~~(2) may conduct preemployment drug screening, in accordance with 21 V.S.A. § 512, of all permanent and temporary Department of Corrections employees hired after July 1, 2014;~~

~~(3) may conduct background investigations before hiring any permanent or temporary employee; and~~

~~(4) may permit offenders to earn contact visits if the contact privilege was taken away.~~

*Sec. 2. DEPARTMENT OF CORRECTIONS PROVISIONS RELATING TO
CONTRABAND*

(a) The Commissioner of Corrections shall adopt rules pursuant to 3 V.S.A. chapter 25 regarding procedures for conducting searches of the personal

belongings of any person who enters the secure portion of a State correctional facility. The Commissioner shall consult with the Joint Legislative Corrections Oversight Committee in developing these rules and shall report periodically to the Committee regarding the implementation of these procedures and any issues of concern.

(b) The Commissioner shall identify the types and amounts of contraband, and the methods used to transport contraband into each State correctional facility, including perimeter breaches, mail, and contacts with visitors. The Commissioner shall include this information in the Commissioner's regular monthly reports to the Joint Legislative Corrections Oversight Committee from July 1, 2014 through December 1, 2014.

(c) On or before December 1, 2015, the Commissioner shall make recommendations to the Joint Legislative Corrections Oversight Committee regarding strategies to prevent contraband from entering State correctional facilities.

(d) The Commissioner may conduct preemployment drug screening in accordance with 21 V.S.A. § 512 of all permanent and temporary employees hired after July 1, 2014 and may conduct background investigations, including obtaining criminal history records in accordance with 20 V.S.A. § 2056a, prior to hiring any permanent or temporary employee.

(e) On or before October 15, 2014, the Department of Corrections shall prepare and submit a report to the Joint Legislative Corrections Oversight Committee on security and safety concerns at State correctional facilities arising from public or private entities employing offenders through work programs.

Sec. 3. DEPARTMENT OF CORRECTIONS STAFFING STUDY

(a) The Department of Corrections shall conduct a study of all State correctional facilities to determine the appropriate number of permanent employees at each facility.

(b) The Department of Corrections shall report quarterly to the General Assembly the number of temporary employees employed by the Department of Corrections, the date of hire for each, and the hours worked by each temporary employee in the calendar year.

(c) The Department of Corrections shall develop three- and five-year plans to provide adequate permanent staffing to meet the staffing needs identified at each Correction's facility and present the plans to the General Assembly by January 15, 2015.

~~Sec. 4. EFFECTIVE DATE~~

~~(a) This Sec. and Sec. 2 shall take effect on passage.~~

~~(b) Secs. 1 and 3 shall take effect on July 1, 2014.~~

Sec. 4. CONTACT VISITS

The Commissioner of Corrections shall update the Joint Legislative Corrections Oversight Committee on a process for permitting offenders to earn contact visits if the contact privilege was taken away.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1a, 2, and 4 shall take effect on passage.

(b) Secs. 1 and 3 shall take effect on July 1, 2014.